

Making Quasi-Judicial Decisions

Quasi-judicial decisions involve applying zoning policies rather than setting new policies. In quasi-judicial decisions, the board making the decision must act much like a court to apply the zoning ordinance (the law) to a specific case. When policies in the ordinance are being applied to an individual case, the legal requirements shift to a focus on securing a fair and impartial hearing on the merits of the case. First the Board must determine the facts of the case and second it must apply the standards in the ordinance to those facts. In this task the Board acts much like a judge in applying the law to a given set of facts.

Legal Ad & Adjacent Property Notification

Planning staff is required by State law for placing an ad in the local newspaper, notifying adjoining property owners and posting a zoning sign on the property of the public hearing date. The public hearing must be advertised in a paper with local circulation at least 10 days prior to the public hearing and no more than 25 days prior to the public hearing date. Additionally, staff is required to send letters through first-class mail to all property owners that are located within a minimum of 150 feet of the subject property of the public hearing. The notification must include the date, time and location of the public hearing.

Open Meeting & Board of Adjustment Decision

The project must be filed with the Planning Department and all of the hearing and the board's deliberations must be conducted in open, public session. Only those parties whose legal rights are directly affected are entitled to participate. Those offering testimony are placed under oath. Members of the decision making board are not allowed to discuss the case or gather evidence outside of the hearing (what the courts term *ex parte* communication).

Members are allowed to view the site, but not discuss the case with the applicant, neighbors, or staff outside of the hearing. There must be "substantial, competent, and material evidence" to support each critical factual determination; therefore the findings cannot be based on conjecture or assumptions. A **four-fifths** vote rather than a simple majority is required in order for the Board of Adjustment to grant approval of the special use permit.

Special Use Permit

A Special Use Permit refers to a situation in which a particular kind of land use is permitted in a district not as a matter "of right", but only under ordinance provisions that authorizes the Board of Adjustment to issue such a permit when it makes specified findings. In addition to requiring compliance with specific ordinance provisions concerning the "special use," the ordinance authorizes the Board to affix other "reasonable and appropriate" conditions to its permit, for the protection of both neighboring properties and larger public interests. All Special Use Permits require a **majority** vote for approval.

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Special Use Permit Process



Planning & Development Department
300 W. Crowell Street
Monroe, NC 28111-0069
Telephone: 704-282-4520
Fax Number: 704-282-4735

Submittal Process

Submittal Process Continued

Details

Details required on the Plans

- Submittal of Special Use Permit Application:
 - Complete application form
 - Fee-\$400.00
 - Recording Fee- \$26.00 (if approved)
 - Plans- Eight (8) full size (24"x36") site plans including landscape plans and elevations, one (1) reduced of each plan (11x17), and one plan in digital format (PDF).
- Project is routed to the various departments within the City and placed on the Technical Review Committee (TRC) agenda for review and comment.
- Once all comments have been addressed and the project has received TRC approval it is then placed on the next available Board of Adjustment agenda.
- The City will advertise a legal ad in the newspaper at least ten (10) days prior to the public hearing, and notify all property owners at a minimum of 150 feet of the subject property of the public hearing.
- Board of Adjustment will conduct a public hearing where the applicant, representative of the applicant, adjoining property owner or a member of the general public are given the opportunity to speak, but must testify under oath and be subject to cross examination. The board can only consider facts and evidence relevant to the case.
- Planning Staff will present evidence to the board explaining the technical aspects of the ordinance as it pertains to the case. Once the Board has heard and received all necessary evidence, discussion will then be open to the applicant or anyone else who wishes to present evidence related to the case. The Board will then openly discuss the facts and render a decision to approve or deny the request.

Site Plan: All applications must include a site plan, drawn to scale, and supporting text that, if approved, will become a part of the Ordinance amendment. The sealed site plan, drawn by an architect, landscape architect, professional surveyor, or engineer licensed to practice in North Carolina, shall include but not limited to right-of-ways existing and new, structures, easements, lot layout (if applicable), phasing (if applicable), landscaping, general comments provided by staff, zoning and parcel numbers of adjacent property owners supporting information and text that specifies the actual use or uses intended for the property.

Elevations: An elevation package is required to be included with a special use permit application if applicable. The submittal must be sealed and drawn by a licensed architect and delineate all sides of the proposed structure(s). Each elevation should clearly identify all dimensions and exterior building materials.

**The Board of Adjustment,
which serves as a Quasi-
Judicial Board meets the 4th
Thursday of every month at
6:00 pm.**

**Meetings are open to the
public.**

Findings of Fact that must be met:

- *The use will not materially endanger the public health or safety if located, designed, and operated according to the plan.*
- *The use of development complies with all regulations and standards of this chapter, as well as any other state or local rule or regulation governing the development of land.*
- *The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.*
- *The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.*

- * The Zoning Administrator may require additional information whenever necessary and may waive one or more of the requirements if such is found to be irrelevant to the proposed project. All evidence submitted becomes a permanent part of the official record.